

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 478**

Introduced by Johnson, 37

Read first time January 17, 2007

Committee: Judiciary

A BILL

1 FOR AN ACT relating to adoption procedures; to amend sections  
2 43-102, 43-104, 43-104.01, 43-104.02, 43-104.03,  
3 43-104.04, 43-104.05, 43-104.09, 43-104.11, 43-104.12,  
4 43-104.13, 43-104.14, 43-104.15, 43-104.17, 43-104.21,  
5 43-104.22, and 43-1411, Reissue Revised Statutes of  
6 Nebraska; to change and eliminate provisions relating to  
7 claims for paternity, petitions for custody, consent for  
8 adoption, the biological father registry, children born  
9 out of wedlock, notice and hearing, and relinquishment of  
10 parental rights; to harmonize provisions; and to repeal  
11 the original sections.

12 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 43-102, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           43-102 Except as otherwise provided in the Nebraska  
4 Indian Child Welfare Act, any person or persons desiring to adopt  
5 a minor child or an adult child shall file a petition for adoption  
6 signed and sworn to by the person or persons desiring to adopt.  
7 The consent or consents required by sections 43-104 and 43-105 or  
8 section 43-104.07, the documents required by section 43-104.07 or  
9 the documents required by sections 43-104.08 to 43-104.24, and a  
10 completed preplacement adoptive home study if required by section  
11 43-107 shall be filed prior to the hearing required in section  
12 43-103.

13           The county court of the county in which the person or  
14 persons desiring to adopt the child reside has jurisdiction of  
15 adoption proceedings, except that if a separate juvenile court  
16 already has jurisdiction over the child to be adopted under the  
17 Nebraska Juvenile Code, such separate juvenile court has concurrent  
18 jurisdiction with the county court in such adoption proceeding.  
19 If a child to be adopted is under the jurisdiction of a separate  
20 juvenile court at the time of placement and at the time of filing  
21 an adoption petition, the petitioners shall not be required to be  
22 residents of Nebraska. The petition and all other court filings for  
23 an adoption proceeding shall be filed with the clerk of the county  
24 court. The party shall state in the petition whether such party  
25 requests that the proceeding be heard by the county court or, in

1 cases in which a separate juvenile court already has jurisdiction  
2 over the child to be adopted under the Nebraska Juvenile Code, such  
3 separate juvenile court. Such proceeding is considered a county  
4 court proceeding even if heard by a separate juvenile court judge  
5 and an order of the separate juvenile court in such adoption  
6 proceeding has the force and effect of a county court order.  
7 The testimony in an adoption proceeding heard before a separate  
8 juvenile court judge shall be preserved as in any other separate  
9 juvenile court proceeding. The clerks of the district courts shall  
10 transfer all adoption petitions and other adoption filings which  
11 were filed with such clerks prior to August 28, 1999, to the clerk  
12 of the county court where the separate juvenile court which heard  
13 the proceeding is situated. The clerk of such county court shall  
14 file and docket such petitions and other filings.

15           Except as set out in subdivisions (1)(b)(ii), (iii),  
16 (iv), and (v) of section 43-107, an adoption decree shall not be  
17 issued until at least six months after an adoptive home study has  
18 been completed by the department or a licensed child placement  
19 agency.

20           Sec. 2. Section 43-104, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           43-104 Except as otherwise provided in the Nebraska  
23 Indian Child Welfare Act, no adoption shall be decreed unless  
24 written consents thereto are filed in the county court of the  
25 county in which the person or persons desiring to adopt reside

1 or in the county where the separate juvenile court having  
2 jurisdiction over the custody of the child is located, and the  
3 written consents are executed by (1) the minor child, if over  
4 fourteen years of age, or the adult child, (2) any district  
5 court, county court, or separate juvenile court in the State of  
6 Nebraska having jurisdiction of the custody of a minor child by  
7 virtue of proceedings had in any district court, county court,  
8 or separate juvenile court in the State of Nebraska or by virtue  
9 of the Uniform Child Custody Jurisdiction and Enforcement Act and  
10 such court's consent shall be according to the standards set in  
11 section 43-104.22 and in compliance with section 43-104.05, where  
12 applicable, and (3) both parents of a child born in lawful wedlock  
13 if living, the surviving parent of a child born in lawful wedlock,  
14 the mother of a child born out of wedlock, or both the mother  
15 and father of a child born out of wedlock as determined pursuant  
16 to sections 43-104.08 to 43-104.24, except that consent shall not  
17 be required of any parent who (a) has relinquished the child for  
18 adoption by a written instrument, (b) has abandoned the child for  
19 at least six months next preceding the filing of the adoption  
20 petition, (c) has been deprived of his or her parental rights to  
21 such child by the order of any court of competent jurisdiction,  
22 or (d) is incapable of consenting. On and after April 20, 2002, a  
23 written consent or relinquishment for adoption under this section  
24 shall not be valid unless signed at least forty-eight hours after  
25 the birth of the child.

1           Sec. 3. Section 43-104.01, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           43-104.01 (1) The Department of Health and Human Services  
4 Finance and Support shall establish a biological father registry  
5 which shall record the names and addresses of (a) any person  
6 adjudicated by a court of this state to be the father of a child  
7 born out of wedlock if a certified copy of the court order is  
8 filed with the registry by such person or any other person, (b) any  
9 person who has filed with the registry, prior to notification under  
10 sections 43-104.12 to 43-104.16, a ~~paternity claim for notification~~  
11 ~~purposes~~ Request for Notification of Intended Adoption for such  
12 child, (c) any person who has filed with the registry a ~~notice~~  
13 ~~of intent to claim paternity and obtain custody~~ an Objection to  
14 Adoption and Notice of Intent to Obtain Custody of such child, and  
15 (d) any person adjudicated by a court of another state or territory  
16 of the United States to be the father of such child, if a certified  
17 copy of the court order has been filed with the registry by that  
18 person or any other person.

19           (2) A ~~paternity claim for notification purposes or a~~  
20 ~~notice of intent to claim paternity and obtain custody~~ Request for  
21 Notification of Intended Adoption or an Objection to Adoption and  
22 Notice of Intent to Obtain Custody filed with the registry shall  
23 include the claimant's name and address, the name and last-known  
24 address of the mother, and the month and year of the birth or the  
25 expected birth of the child. The person filing the notice shall

1 notify the registry of any change of address pursuant to procedures  
2 prescribed by regulations of the department.

3 (3) Any person filing a ~~paternity claim for notification~~  
4 ~~purposes or a notice of intent to claim paternity and obtain~~  
5 ~~custody~~ a Request for Notification of Intended Adoption or an  
6 Objection to Adoption and Notice of Intent to Obtain Custody with  
7 the biological father registry may revoke such ~~notice,~~ filing, and  
8 upon receipt of such revocation by the registry, the effect shall  
9 be as if no filing had ever been made.

10 (4) The department shall not divulge the names and  
11 addresses of persons listed with the registry to any other person  
12 except as authorized by law or upon order of a court for good cause  
13 shown.

14 (5) The department may develop information about the  
15 registry and may distribute such information, through their  
16 existing publications, to the news media and the public. The  
17 department may provide information about the registry to the  
18 Department of Correctional Services, the Department of Health and  
19 Human Services, and the Department of Health and Human Services  
20 Regulation and Licensure, who may distribute such information  
21 through their existing publications.

22 Sec. 4. Section 43-104.02, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 43-104.02 As provided in section 43-104.01, and unless  
25 exempt from filing under section 43-104.05, a person ~~claiming to~~

1 be the father of the child and who intends to claim paternity  
2 and obtain custody of the objecting to the adoption and seeking  
3 to obtain custody of a minor child shall file with the biological  
4 father registry maintained by the Department of Health and Human  
5 Services Finance and Support on forms provided by the department,  
6 an Objection to Adoption and Notice of Intent to Obtain Custody  
7 within five business days after the birth of the child, or if  
8 notice is provided after the birth of the child, within five  
9 business days after receipt of the notice being provided the  
10 substantive information contemplated in the notices described in  
11 section 43-104.12, or within five business days after the last date  
12 of any published notice provided pursuant to section 43-104.14,  
13 whichever is later, a notice of intent to claim paternity and  
14 obtain custody. sufficient to allow compliance with this section.  
15 Such notice shall include the social security number of the person  
16 claiming to be the father. A notice of intent to claim paternity  
17 and obtain custody claimant biological father, and the case name,  
18 court name, and location of any Nebraska court having jurisdiction  
19 over the custody of the child by virtue of divorce, paternity,  
20 guardianship, or juvenile court proceedings in any district court,  
21 county court, or separate juvenile court in the State of Nebraska.  
22 An Objection to Adoption and Notice of Intent to Obtain Custody  
23 of the child shall be considered to have been filed if it is  
24 received by the Department of Health and Human Services Finance and  
25 Support or postmarked prior to the end of the fifth business day

1 ~~contemplated in~~ pursuant to this section.

2           Sec. 5. Section 43-104.03, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           43-104.03 Within three days after the filing of a  
5 ~~paternity claim for notification purposes or a notice of intent~~  
6 ~~to claim paternity and obtain custody~~ Request for Notification of  
7 Intended Adoption or an Objection to Adoption and Notice of Intent  
8 to Obtain Custody with the biological father registry pursuant  
9 to sections 43-104.01 and 43-104.02, the Director of Finance and  
10 Support shall cause a certified copy of such notice to be mailed  
11 by certified mail to (1) the mother or prospective mother of  
12 such child at the last-known address shown on the notice or ~~(2)~~  
13 an agent specifically designated in writing by the mother or  
14 prospective mother to receive such notice, and (2) any Nebraska  
15 court having jurisdiction over the custody of the child by virtue  
16 of divorce, paternity, guardianship, or juvenile court proceedings  
17 in any district court, county court, or separate juvenile court in  
18 the State of Nebraska. The notice shall be admissible in any action  
19 ~~for involving paternity,~~ shall estop the claimant from denying  
20 ~~paternity of such child thereafter,~~ and shall contain language that  
21 the claimant acknowledges liability for contribution to the support  
22 and education of the child after birth and for contribution to the  
23 pregnancy-related medical expenses of the mother.

24           Sec. 6. Section 43-104.04, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1           43-104.04 ~~If a notice of intent to claim paternity and~~  
2 ~~obtain custody~~ a Request for Notification of Intended Adoption or  
3 an Objection to Adoption and Notice of Intent to Obtain Custody  
4 is not timely filed with the biological father registry pursuant  
5 to section 43-104.02, the mother of a child born out of wedlock  
6 or an agent specifically designated in writing by the mother may  
7 request, and the Department of Health and Human Services Finance  
8 and Support shall supply, a certificate that no ~~notice of intent to~~  
9 ~~claim paternity and obtain custody~~ Objection to Adoption and Notice  
10 of Intent to Obtain Custody has been filed with the biological  
11 father registry and the filing of such certificate pursuant to  
12 section 43-102 shall eliminate the need or necessity of a consent  
13 or relinquishment for adoption by the natural father of such child.

14           Sec. 7. Section 43-104.05, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           43-104.05 (1) If the unwed biological father of a child  
17 who is the subject of a proposed adoption has been adjudicated  
18 to be the biological father of the child by a Nebraska district  
19 court, county court, or separate juvenile court, the biological  
20 father shall be exempt from the requirements of section 43-102  
21 and subsection (2) of this section, and the issue of whether his  
22 consent to the adoption is required shall be determined by the  
23 Nebraska court with jurisdiction over the custody of the child in a  
24 proceeding required by section 43-104 to obtain the court's consent  
25 to the proposed adoption, as set forth in subsection (3) of this

1 section.

2           (2) If a notice of intent to claim paternity and obtain  
3 custody an Objection to Adoption and Notice of Intent to Obtain  
4 Custody is timely filed with the biological father registry  
5 pursuant to section 43-104.02, either the claimant-father, the  
6 mother, or her agent specifically designated in writing shall,  
7 within thirty days after filing ~~the notice,~~ such document, file  
8 a petition for an adjudication of ~~the claim of paternity and~~  
9 ~~right to custody.~~ the Objection to Adoption and Notice of Intent  
10 to Obtain Custody and a determination of the necessity of the  
11 claimant-father's consent to the proposed adoption. The petition  
12 shall be filed in the county court in the county where such child  
13 was born or, if a separate juvenile court already has jurisdiction  
14 over the child, in the county where such separate juvenile court is  
15 located. If such a petition is not filed within thirty days after  
16 filing ~~the notice,~~ Objection to Adoption and Notice of Intent to  
17 Obtain Custody, the claimant-father's consent to adoption of the  
18 child shall not be required, he is not entitled to any further  
19 notice of the adoption proceedings, and if the mother of the  
20 child irrevocably relinquishes her rights to the child for purposes  
21 of adoption within sixty days of the filing of the Objection  
22 to Adoption and Notice of Intent to Obtain Custody, any alleged  
23 parental rights and responsibilities of the claimant-father shall  
24 not be recognized thereafter in any court. After the filing of such  
25 petition, the court shall set a trial date upon proper notice to

1 the parties not less than twenty nor more than thirty days after  
2 such filing. If the mother contests the claim of paternity, the  
3 court shall ~~take such testimony as shall enable it to determine the~~  
4 ~~facts.~~ order DNA testing to establish whether the claimant-father  
5 is the biological father. The Whether the claimant-father's rights  
6 and the custody of the child consent to the adoption is required  
7 shall be determined pursuant to section 43-104.22. The court shall  
8 appoint a guardian ad litem to represent the best interests of the  
9 child. The county court or separate juvenile court, if applicable,  
10 shall have jurisdiction over adjudication of an Objection to  
11 Adoption and Notice of Intent to Obtain Custody and the issues  
12 presented in section 43-104.22 from the time the claimant-father is  
13 notified of the proposed adoption in substantial compliance with  
14 section 43-104.12 or 43-104.14, whichever notice is first, until  
15 expiration of the deadlines in section 43-104.02 and this section  
16 if an Objection to Adoption and Notice of Intent to Obtain Custody  
17 is filed, and for thirty days after completion of proceedings under  
18 this section, including appeals, if a petition for adjudication  
19 is filed. If the court determines that the biological father's  
20 consent to the adoption is required under section 43-104.22, and he  
21 refuses to provide his consent, the court shall upon motion of any  
22 party transfer the case to district court for further proceedings  
23 on the matter of custody, visitation, and child support, unless  
24 the court determines there is good cause for the case to remain.  
25 Evidence of a birth mother's relinquishment or consent to the

1 proposed adoption shall not alter the requirements of this section  
2 and is not admissible in any proceeding regarding the custody of  
3 the child. If the birth mother does not relinquish or consent to  
4 an adoption of the minor child within thirty days of completion of  
5 proceedings under this section, including appeals, and a petition  
6 for adjudication is filed, the court shall upon motion of any party  
7 transfer the case to district court for further proceedings on the  
8 matter of custody, visitation, and child support, unless the court  
9 determines there is good cause for the case to remain.

10 (3) If the unwed biological father of a child who is  
11 the subject of a proposed adoption has been adjudicated to be  
12 the biological father of the child by a Nebraska district court,  
13 county court, or separate juvenile court, the issue of whether  
14 his consent to the adoption is required under section 43-104.22  
15 shall be determined by the Nebraska court with jurisdiction over  
16 the custody of the child. Unless the adjudicated biological father  
17 relinquishes and consents to the adoption within sixty days of  
18 providing the adjudicated biological father with notice of the  
19 proposed adoption pursuant to sections 43-104.12 to 43-104.14 and  
20 a request for him to relinquish and consent to the adoption, the  
21 mother, lawful custodian, or his or her agent designated in writing  
22 shall file in the court with jurisdiction over the child a motion  
23 to obtain the court's consent to the proposed adoption as required  
24 by section 43-104 and shall serve the biological father with notice  
25 of the motion and hearing in the manner for service of process

1 under state law. The court shall conduct an expedited evidentiary  
 2 hearing to determine whether the biological father's consent to the  
 3 adoption is required under section 43-104.22 and whether the court  
 4 shall grant its consent to the proposed adoption. If the court is  
 5 provided evidence that the biological father has executed a valid  
 6 relinquishment or consent to adoption of the child, the court shall  
 7 grant its consent to the proposed adoption.

8           Sec. 8. Section 43-104.09, Reissue Revised Statutes of  
 9 Nebraska, is amended to read:

10           43-104.09 In all cases of adoption of a minor child  
 11 born out of wedlock, the biological mother shall complete and  
 12 sign an affidavit in writing and under oath. The affidavit shall  
 13 be executed by the biological mother before or at the time of  
 14 execution of the consent or relinquishment and shall be attached  
 15 as an exhibit to any petition to finalize the adoption. If the  
 16 biological mother is under the age of nineteen, the affidavit may  
 17 be executed by the agency or attorney representing the biological  
 18 mother based upon information provided by the biological mother.  
 19 The affidavit shall be in substantially the following form:

20           AFFIDAVIT OF IDENTIFICATION

21           I, ....., the mother of a child, state under  
 22 oath or affirm as follows:

23           (1) My child was born, or is expected to be born, on the  
 24 ..... day of ....., ....., at ....., in  
 25 the State of .....

1 (2) I reside at ....., in the City or Village  
2 of ....., County of ....., State of  
3 .....

4 (3) I am of the age of ..... years, and my date of  
5 birth is .....

6 (4) I acknowledge that I have been asked to identify the  
7 father of my child.

8 (5) (CHOOSE ONE)

9 (5A) I know and am identifying the biological father (or  
10 possible biological fathers) as follows:

11 The name of the biological father is .....

12 His last-known home address is .....

13 His last-known work address is .....

14 He is ..... years of age, or he is deceased,  
15 having died on or about the ..... day of .....,  
16 ....., at ....., in the State of  
17 .....

18 He has been adjudicated to be the biological  
19 father by the ..... court of .....  
20 county, State of ....., case  
21 name ....., docket number  
22 .....

23 (For other possible biological fathers, please use  
24 additional sheets of paper as needed.)

25 (5B) I am unwilling or unable to identify the biological

1 father (or possible biological fathers). I do not wish or I am  
2 unable to name the biological father of the child for the following  
3 reasons:

4 ..... Conception of my child occurred as a result of  
5 sexual assault, statutory rape, or incest

6 ..... Providing notice to the biological father of  
7 my child would threaten my safety or the safety of my child for the  
8 following reasons:

9 .....  
10 ~~..... Other reason: .....~~

11 (6) If the biological mother is unable to name the  
12 biological father, the physical description of the biological  
13 father (or possible biological fathers) and other information which  
14 may assist in identifying him, including the city or county and  
15 state where conception occurred:

16 .....  
17 .....  
18 .....

19 (use additional sheets of paper as needed).

20 (7) Under penalty of perjury, the undersigned certifies  
21 that the statements set forth in this affidavit are true and  
22 correct.

23 (8) I have read this affidavit and have had the  
24 opportunity to review and question it. It was explained to me  
25 by .....

1 I am signing it as my free and voluntary act and  
2 understand the contents and the effect of signing it.

3 Dated this ..... day of ....., .....

4 (Acknowledgment)

5 .....

6 (Signature)

7 Sec. 9. Section 43-104.11, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 43-104.11 If the biological mother's affidavit, required  
10 by section 43-104.09, identifies only one possible biological  
11 father of the child and states that there are no other possible  
12 biological fathers of the child, and if the named father executes  
13 a valid relinquishment and consent to adoption of the child in the  
14 form mandated by section 43-106 or executes a denial of paternity  
15 and waiver of rights in the form mandated by section 43-106, the  
16 court may enter a decree of adoption pursuant to section 43-109  
17 without regard to sections ~~43-104.12~~ 43-104.05 to 43-104.16. A  
18 named or putative biological father's relinquishment and consent  
19 or a named or putative biological father's waiver of rights is  
20 irrevocable upon signing and is not voidable for any period after  
21 signing. A waiver of rights may admit or deny paternity and may  
22 be signed pre-birth, if witnessed and notarized, and is irrevocable  
23 if it contains an advisement that fully informs the biological  
24 father of its irrevocability and that any and all rights he may  
25 have to the child are being waived and forfeited but only upon

1 the adoption of the child. A named or putative biological father  
 2 shall be asked to complete a medical history form and shall be  
 3 provided information regarding the nonconsent form pursuant to  
 4 section 43-106.02, but completion of the medical history form or  
 5 a nonconsent form shall not be required. Such relinquishment and  
 6 consent or such waiver of rights may only be challenged on the  
 7 basis of fraud or duress and only for up to six months after  
 8 signing.

9           Sec. 10. Section 43-104.12, Reissue Revised Statutes of  
 10 Nebraska, is amended to read:

11           43-104.12 In order to attempt to inform the biological  
 12 father or possible biological fathers of the right to execute a  
 13 relinquishment and consent to adoption or a denial of paternity  
 14 and waiver of rights, the agency or attorney representing the  
 15 biological mother shall notify, by (1) personal delivery to the  
 16 biological father, with an affidavit of service by an attorney  
 17 or agency representative or a signed receipt by the biological  
 18 father, (2) registered or certified mail, restricted delivery,  
 19 return receipt requested, or (3) service by sheriff or constable:

20           (1) Any person adjudicated by a court in this state or by  
 21 a court in another state or territory of the United States to be  
 22 the biological father of the child;

23           (2) Any person who has filed a ~~paternity claim for~~  
 24 ~~notification purposes or a notice of intent to claim paternity and~~  
 25 ~~obtain custody~~ Request for Notification of Intended Adoption or

1 an Objection to Adoption and Notice of Intent to Obtain Custody  
2 pursuant to sections 43-104.01 and 43-104.02;

3 (3) Any person who is recorded on the child's birth  
4 certificate as the child's father;

5 (4) Any person who might be the biological father of  
6 the child who was openly living with the child's biological mother  
7 within the twelve months prior to the birth of the child;

8 (5) Any person who has been identified as the biological  
9 father or possible biological father of the child by the child's  
10 biological mother pursuant to section 43-104.09;

11 (6) Any person who was married to the child's biological  
12 mother within six months prior to the birth of the child and prior  
13 to the execution of the relinquishment; and

14 (7) Any other person who the agency or attorney  
15 representing the biological mother may have reason to believe may  
16 be the biological father of the child.

17 Sec. 11. Section 43-104.13, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 43-104.13 The notice sent by the agency or attorney  
20 pursuant to section 43-104.12 shall be served sufficiently in  
21 advance of the birth of the child, whenever possible, to allow  
22 substantial compliance with section 43-104.02 and shall state:

23 (1) The biological mother's name, the fact that she is  
24 pregnant or has given birth to the child, and the expected or  
25 actual date of delivery;

1           (2) That the child has been relinquished by the  
2 biological mother, that she intends to execute a relinquishment,  
3 or that the biological mother has joined or plans to join in a  
4 petition for adoption to be filed by her husband;

5           (3) That the person being notified has been identified as  
6 a possible biological father of the child;

7           (4) That the possible biological father may have certain  
8 rights with respect to such child if he is in fact the biological  
9 father;

10          (5) That the possible biological father has the right to  
11 (a) deny paternity, (b) waive any parental rights he may have, (c)  
12 relinquish and consent to adoption of the child, ~~or~~ (d) file a  
13 ~~notice of intent to claim paternity and obtain custody~~ an Objection  
14 to Adoption and Notice of Intent to Obtain Custody of the child  
15 pursuant to section 43-104.02 or (e) object to the adoption in a  
16 proceeding before any Nebraska court having adjudicated him to be  
17 the biological father prior to his receipt of notice;

18          (6) That to deny paternity, to waive his parental rights,  
19 or to relinquish and consent to the adoption, the biological  
20 father must contact the undersigned agency or attorney representing  
21 the biological mother, and that if he wishes to seek custody  
22 of the child he should seek legal counsel from his own attorney  
23 immediately; and

24          (7) That if he is the biological father and if the child  
25 is not relinquished for adoption, he has a duty to contribute to

1 the support and education of the child and to the pregnancy-related  
2 expenses of the mother and a right to seek visitation.

3 The agency or attorney representing the biological mother  
4 may enclose with the notice a document which is an admission  
5 or denial of paternity and a waiver of rights by the biological  
6 father, which the biological father may choose to complete, in  
7 the form mandated by section 43-106, and return to the agency or  
8 attorney.

9 Sec. 12. Section 43-104.14, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 43-104.14 (1) If the agency or attorney representing the  
12 biological mother is unable through reasonable efforts to locate  
13 and serve notice on the biological father or possible biological  
14 fathers as contemplated in sections 43-104.12 and 43-104.13, the  
15 agency or attorney shall notify the biological father or possible  
16 biological fathers by publication.

17 (2) The publication shall be made once a week for three  
18 consecutive weeks in a legal newspaper of general circulation in  
19 the Nebraska county or county of another state which is most likely  
20 to provide actual notice to the biological father. The publication  
21 shall include:

22 (a) The first name or initials of the father or possible  
23 father or the entry "John Doe, real name unknown", if applicable;

24 (b) A description of the father or possible father if his  
25 first name is or initials are unknown;

1           (c) The approximate date of conception of the child and  
2 the city and state in which conception occurred, if known;

3           (d) The date of birth or expected birth of the child;

4           (e) That he has been identified as the biological father  
5 or possible biological father of a child whom the biological mother  
6 currently intends to place for adoption and the approximate date  
7 that placement will occur;

8           (f) That he has the right to (i) deny paternity, (ii)  
9 waive any parental rights he may have, (iii) relinquish and  
10 consent to adoption of the child, ~~or (iv) file a notice of intent~~  
11 ~~to claim paternity and obtain custody of the child within five~~  
12 ~~business days of the birth of the child or within five business~~  
13 ~~days of this notice, whichever is later, pursuant to section~~  
14 ~~43-104.02, (iv) file an Objection to Adoption and Notice of Intent~~  
15 ~~to Obtain Custody pursuant to section 43-104.02; or (v) object~~  
16 ~~to the adoption in a proceeding before any Nebraska court having~~  
17 ~~adjudicated him to be the biological father prior to his receipt of~~  
18 ~~notice; and~~

19           (g) That (i) in order to deny paternity, waive his  
20 parental rights, relinquish and consent to the adoption, or receive  
21 additional information to determine whether he is the father of  
22 the child in question, he must contact the undersigned agency or  
23 attorney representing the biological mother and (ii) if he wishes  
24 to object to the adoption and seek custody of the child, he must  
25 seek legal counsel from his own attorney immediately.

1           Sec. 13. Section 43-104.15, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           43-104.15 The notification procedure set forth in  
4 sections 43-104.12 to 43-104.14 shall, whenever possible, be  
5 completed prior to a child being placed in an adoptive home.  
6 If the information provided in the biological mother's affidavit  
7 prepared pursuant to section 43-104.09 presents clear evidence that  
8 providing notice to a biological father or possible biological  
9 father as contemplated in sections 43-104.12 to 43-104.14 would be  
10 likely to threaten the safety of the biological mother or the child  
11 or that conception was the result of sexual assault, statutory  
12 rape, or incest, notice is not required to be given and the  
13 biological father's consent to the adoption is not necessary. If  
14 the biological father or possible biological fathers are not given  
15 actual or constructive notice prior to the time of placement, the  
16 agency or attorney shall give the adoptive parents a statement of  
17 legal risk indicating the legal status of the biological father's  
18 parental rights as of the time of placement, and the adoptive  
19 parents shall sign a statement of legal risk acknowledging their  
20 acceptance of the placement, notwithstanding the legal risk.

21           Sec. 14. Section 43-104.17, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           43-104.17 In all cases of adoption of a minor child  
24 born out of wedlock, the petition to finalize the adoption  
25 shall specifically allege compliance with sections 43-104.08 to

1 43-104.16, and shall attach as exhibits all documents which are  
 2 evidence of such compliance. No notice of the filing of the  
 3 petition ~~to finalize~~ or the hearing on the petition shall be  
 4 given to a biological father or possible biological father who  
 5 (1) executed a valid relinquishment and consent or a valid ~~denial~~  
 6 ~~of paternity and~~ waiver of rights pursuant to section 43-104.11,  
 7 ~~or~~ (2) was provided notice ~~under~~ in substantial compliance with  
 8 sections 43-104.12 to 43-104.14 and failed to timely file an ~~intent~~  
 9 ~~to claim paternity and obtain custody~~ Objection to Adoption and  
 10 Notice of Intent to Obtain Custody pursuant to section 43-104.02  
 11 or a timely petition to adjudicate pursuant to subsection (2)  
 12 of section 43-104.05, or (3) is not required to consent to the  
 13 adoption for the adoption to proceed.

14 Sec. 15. Section 43-104.21, Reissue Revised Statutes of  
 15 Nebraska, is amended to read:

16 43-104.21 (1) Notice of the hearing under section  
 17 43-104.20 shall be given to every person identified by the guardian  
 18 ad litem as the biological father or a possible biological father.  
 19 Notice shall be given in the manner appropriate under the rules of  
 20 civil procedure for the service of process in this state and in any  
 21 additional manner that the court directs. Proof of notice shall be  
 22 filed with the court before the hearing.

23 (2) Notice is not required to be given to a person who  
 24 may be the father of a child conceived as a result of a sexual  
 25 assault, statutory rape, or incest or if notification is likely to

1 result in a threat to the safety of the biological mother or the  
2 child.

3 Sec. 16. Section 43-104.22, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 43-104.22 At any hearing ~~to determine a biological~~  
6 ~~father's parental rights to the child,~~ the court shall receive  
7 evidence with regard to the biological father's actual paternity of  
8 the child and whether he is a fit, proper, and suitable custodial  
9 parent for the child. The to determine whether an actual or  
10 putative biological father's consent is required for an adoption  
11 of a minor child, the court shall determine that the biological  
12 father's consent is not required ~~for a valid adoption of the child~~  
13 upon a finding of one or more of the following:

14 (1) The father abandoned or neglected the child after  
15 having knowledge of the child's birth;

16 (2) The father in his own right is not a fit, proper,  
17 and suitable custodial parent for the child or would unduly rely on  
18 third parties or relatives to care for and provide support for the  
19 child;

20 (3) The father had knowledge of the child's birth and  
21 failed to provide reasonable financial support for the mother or  
22 child;

23 (4) The father abandoned the mother without reasonable  
24 cause and with knowledge of the pregnancy;

25 (5) The father had knowledge of the pregnancy and failed

1 to provide reasonable support for the mother during the pregnancy;

2 (6) The child was conceived as a result of a  
3 nonconsensual sex act, sexual assault, statutory rape, or an  
4 incestual act;

5 (7) Notice was provided pursuant to sections 43-104.12 to  
6 43-104.14 and the father failed to timely file an ~~intent to claim~~  
7 ~~paternity and obtain custody~~ Objection to Adoption and Notice of  
8 Intent to Obtain Custody pursuant to ~~section~~ sections 43-104.02 and  
9 43-104.05;

10 (8) The father failed to timely file a petition to  
11 adjudicate his ~~claim of paternity and right to custody~~ Objection to  
12 Adoption and Notice of Intent to Obtain Custody as contemplated in  
13 section 43-104.05; ~~ex~~

14 (9) The father failed to object to or failed to appear  
15 at the hearing regarding consent to a proposed adoption as  
16 contemplated in subsection (3) of section 43-104.05;

17 (10) The father executed a valid relinquishment or  
18 consent to adoption or a valid waiver of rights pursuant to  
19 section 43-104.11; or

20 (11) The man is not, in fact, the biological father of  
21 the child.

22 ~~The court shall determine~~ Any court that determines the  
23 custody of ~~the~~ a child who has been placed in an adoptive home  
24 shall determine custody of the child according to the best interest  
25 of the child, weighing the superior rights of a biological parent

1 who has been found to be a fit, proper, and suitable parent  
2 against any detriment the child would suffer if removed from the  
3 custody of persons with whom the child has developed a substantial  
4 relationship.

5           Sec. 17. Section 43-1411, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           43-1411 A civil proceeding to establish the paternity  
8 of a child may be instituted, in the court of the district  
9 where the child is domiciled or found or, for cases under the  
10 Uniform Interstate Family Support Act, where the alleged father is  
11 domiciled, by (1) the mother or the alleged father of such child,  
12 either during pregnancy or within four years after the child's  
13 birth, ~~unless consent or relinquishment has been made pursuant to~~  
14 ~~sections 43-104.08 to 43-104.24 or section 43-105 for purposes of~~  
15 ~~adoption~~ subject to sections 43-104.05 and 43-104.22 or (2) the  
16 guardian or next friend of such child or the state, either during  
17 pregnancy or within eighteen years after the child's birth. Summons  
18 shall issue and be served as in other civil proceedings, except  
19 that such summons may be directed to the sheriff of any county in  
20 the state and may be served in any county.

21           Sec. 18. Original sections 43-102, 43-104, 43-104.01,  
22 43-104.02, 43-104.03, 43-104.04, 43-104.05, 43-104.09, 43-104.11,  
23 43-104.12, 43-104.13, 43-104.14, 43-104.15, 43-104.17, 43-104.21,  
24 43-104.22, and 43-1411, Reissue Revised Statutes of Nebraska, are  
25 repealed.